



# Department of Environmental Quality

*To protect, conserve and enhance the quality of Wyoming's  
environment for the benefit of current and future generations.*



Matthew H. Mead, Governor

Todd Parfitt, Director

Mr. Shaun McGrath, Administrator  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

December 1, 2014

RE: Revised recreation designated uses for streams in Wyoming based on the *Categorical Use Attainability Analysis for Recreation*

Dear Mr. McGrath,

Pursuant to Section 303(c) of the Clean Water Act, 40 CFR § 131.6, and Section 34(a) of Wyoming's Water Quality Rules and Regulations, the Wyoming Department of Environmental Quality (WDEQ) is submitting for your approval revised recreation use designations for a category of low flow streams in Wyoming. The decision to change the recreation designated uses for these streams was based on the findings of a use attainability analysis (UAA), as provided in 40 CFR § 131.10. The UAA was conducted in compliance with adopted surface water standards for the State of Wyoming, specifically Sections 33, 34, and 35 of Chapter 1 of the Wyoming Water Quality Rules and Regulations and Wyoming's *Implementation Policies for Antidegradation, Mixing Zones and Dilution Allowances, Turbidity and Use Attainability Analysis*.

Included in this submission package are:

1. Final use attainability analysis, dated August 2014
2. Final administrator's determination, dated August 20, 2014
3. Attorney General's certification, dated November 28, 2014
4. Public notice advertisement, dated January 28, 2014
5. Response to Comments for Comment Period Ending March 14, 2014
6. Public notice advertisement, dated August 8, 2013
7. Response to Comments for Comment Period Ending September 30, 2013
8. Recreation UAA Low Flow Approach, dated October 10, 2012
9. Preliminary Draft of Categorical UAA for Recreation, dated February 8, 2012

The secondary contact recreation use subcategory was approved by the United States Environmental Protection Agency (EPA) in a September 2008 action letter on revisions to Chapter 1 of WDEQ's Water Quality Rules and Regulations, Wyoming Surface Water Quality Standards. In that action letter, EPA also disapproved the designation of a large number of Wyoming's waters for secondary contact recreation

Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH	ABANDONED MINES	AIR QUALITY	INDUSTRIAL SITING	LAND QUALITY	SOLID & HAZ. WASTE	WATER QUALITY
(307) 777-7758	(307) 777-6145	(307) 777-7391	(307) 777-7369	(307) 777-7756	(307) 777-7752	(307) 777-7781
FAX 777-7682	FAX 777-6462	FAX 777-5616	FAX 777-5973	FAX 777-5864	FAX 777-5973	FAX 777-5973



2016-002393-0000908

because use attainability analyses had not been completed. Following the 2008 disapproval, WDEQ worked extensively with EPA to develop a *Categorical Use Attainability Analysis for Recreation* (*Categorical UAA*) to ensure that the State prepared a UAA that was consistent with state and federal regulations and state and federal guidance on recreation UAAs. With this submission, WDEQ has fulfilled EPA's requirement that a UAA be completed on waters designated for secondary contact recreation.

Both WDEQ and USEPA recognized early on that there was considerable public interest in appropriately designating recreational uses of surface waters of the State, and that processing hundreds of site-specific UAAs would create an unsustainable resource burden for both agencies. To address the issue, WDEQ developed a Geographic Information Systems (GIS) based approach to categorically designate recreation uses in similar environments. This approach effectively and efficiently demonstrates, based on a suite of factors, that primary contact recreation is not an existing or attainable use on the streams identified for secondary contact recreation by the *Categorical UAA*.

The *Categorical UAA* is based in large part on USEPA and Wyoming's "low flow" factor and successfully demonstrates that streams with mean annual flows less than 6 cfs do not have sufficient flow to support primary contact recreation activities such as swimming. The *Categorical UAA* also considers that small children may engage in water play in streams of any size. To protect small children who may have significant contact with the water in "low flow" streams, WDEQ identified areas where children may have easy access to streams and designated all such streams, regardless of flow, for primary contact recreation. This includes streams near towns, schools, and accessible recreation sites. WDEQ also incorporated site-specific flow and recreation information where it was available and validated the *Categorical UAA* with more than 870 site-specific field surveys of recreational use.

In addition, the *Categorical UAA*:

- is consistent with federal and state regulations on UAAs;
- is consistent with state and federal guidance on recreation UAAs;
- is scientifically defensible;
- is more conservative than many site-specific recreation UAAs that have been approved by USEPA;
- is the result of both formal and informal feedback from EPA and other public and private stakeholders on various drafts of the analysis;
- recognizes the resource limitations of the state;
- recognizes the desire of the state to move to a GIS based system for assigning and accessing surface water designated uses; and
- identifies the process for modifying recreational designated uses in instances where the designated use may not be reflective of existing and/or attainable uses.

As outlined in the *Categorical UAA*, the UAA used the best available information to identify waters where primary contact recreation is not an existing or attainable use. However, because the *Categorical UAA* was conducted at a state-wide scale, WDEQ recognized that the designations may not perfectly align on every stream in the State, as discussed in the *Categorical UAA*. As new data and information become

available, surface water quality standards, specifically designated uses and criteria to protect designated uses, can be modified if necessary.

Since the process of designating uses and adopting criteria to protect designated uses is ongoing, WDEQ has recommended that stakeholders notify WDEQ of instances in which designated uses may not be reflective of existing uses as they are defined in Wyoming's Surface Water Quality Standards. WDEQ has recommended that stakeholders submit such examples, along with the Recreational Use Designations UAA Worksheet found in the *Use Attainability Analysis Implementation Policy*. WDEQ will then use that information to determine whether modification of the designated use of a particular stream is appropriate.

Finally, it is important to note that WDEQ applies surface water designated uses, as identified in the *Categorical UAA*, to "surface waters of the state," as defined in Chapter 1 of the Water Quality Rules and Regulations, Wyoming Surface Water Quality Standards. Surface waters of the State may or may not coincide with "waters of the United States" under the federal Clean Water Act.

WDEQ has sincerely appreciated EPA's willingness to collaborate on this UAA and recognizes the considerable time and effort that EPA staff has devoted during development and revision of the *Categorical UAA*. Based on this extensive collaboration, WDEQ expects a timely approval of the UAA. As outlined in Section 34 of the Wyoming Surface Water Quality Standards, the designated use changes shall become effective and enforceable under State regulations upon EPA approval or 90 days following this submission, whichever comes first.

If you have questions or require additional information, please contact Lindsay Patterson at (307)777-7079 or [Lindsay.Patterson@wyo.gov](mailto:Lindsay.Patterson@wyo.gov).

Sincerely,



Todd Parfitt, Director  
Wyoming Department of Environmental Quality

TP/LP/rm/14-1077

Enclosures: UAA Submission Package (on compact disc)  
Attorney General Certification

cc: Kevin Frederick, DEQ/WQD  
David Waterstreet, DEQ/WQD  
Dave Ross, Attorney General's Office  
Wyoming Association of Conservation Districts